IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

WA.No. 2522 of 2007

(AGAINST THE JUDGEMENT IN WPC.26822/2007 Dated 19/09/2007)

APPELLANTS/RESPONDENTS 2 AND 3 IN THE W.P.(C):
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1. BRANCH MANAGER,
SOUTH INDIAN BANK,
KANJIRAPPALLY.

2. CHIEF MANAGER (AUTHORIZED OFFICER),
SOUTH INDIAN BANK,
REGIONAL OFFICE,
COLLECTORATE P.O.,
KOTTAYAM.

BY ADV. SRI.K.PRABHAKARAN, SC,SOUTH INDIAN BANK

RESPONDENTS/PETITIONERS & RESPONDENT NO.1 IN THE W.P.(C):
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1. MOHAMMED RIYAS,
S/O.M.M.SAYED MUHAMMED,
MELETTUTHAKADIYIL HOUSE,
NEAR K.M.A.HALL,
KANJIRAPPALLY.
(CALES HOUSE, KANJIRAPPALLY).

2. MOHAMMED SIRAS,
S/O.M.M.SAYED MUHAMMED,
MELETTUTHAKADIYIL HOUSE,
NEAR K.M.A.HALL,
KANJIRAPPALLY.

3. RECOVERY OFFICER,
DEBTS RECOVERY TRIBUNAL,
ERNAKULAM.

BY ADV. SHRI T.M. ABDUL LATHEEF.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 23/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN,J.

W.A. NO. 2522 OF 2007

Dated this the 23rd October, 2007

JUDGMENT

H.L.DATTU, C.J.

A scheduled bank is before us, inter alia, calling in question the correctness or otherwise of the judgment of the learned single Judge in W.P.(C) No.26822 of 2007, dated 19th September, 2007.

2. Petitioners (respondent Nos.1 and 2 in the appeal) are the borrowers of certain funds from the second respondent bank (appellant No.1 in the appeal). Since they have committed default in re-payment of the loan amount, the second respondent bank has initiated recovery proceedings to recover the balance amount due from the petitioners by resorting to the provisions of the Securitisation Act. Aggrieved by the action of the bank, petitioners were before this Court in W.P.(C) No.26822 of 2007. The learned single Judge, taking into consideration the plea of financial inability pleaded by the petitioners to re-pay the amounts immediately, has granted some time to the petitioners to re-pay the dues to the bank. The learned Judge has also made it clear that, if for any reason, the petitioners make any default in complying with the orders and directions issued by the Court, the bank could continue the recovery proceedings.

3. A writ court is a court of equities. It has extraordinary and discretionary jurisdiction. When a human being approaches the court seeking certain reliefs on several grounds and if those grounds are bona fide and appealing to the learned single Judge and if he extends his helping hand to alleviate the grievance of the human being, that cannot be taken exception, that too by a scheduled bank.

4. In the instant case, it is an admitted position that the petitioners have

committed default in re-payment of the loan amount borrowed from the second respondent bank. The bank has initiated recovery proceedings. It is that which has brought the petitioners before the Court. It was contended by the petitioners that they have re-payed huge loan amounts to various banks, which amounts to above a crore. They also pleaded their financial inability to re-pay the amounts due to the second respondent bank immediately. Keeping all these aspects of the matter in view, the learned single Judge has postponed the recovery proceedings initiated by the second respondent bank till 31.12.2007. In our opinion, this has been done by the learned single Judge exercising its discretionary and extraordinary jurisdiction. We do not find any fault in the order passed by the learned single Judge. Therefore, confirming the order passed by the learned single Judge, we make it clear that the petitioners in the Writ Petition shall comply with the orders and directions issued by this Court within the time granted. We also make it clear that if, for any reason, the petitioners fails to comply with the directions issued by the learned Single Judge, the Appellant-Bank is at liberty to continue with the recovery proceedings to recover the dues from the petitioners.

Ordered accordingly.

(H.L.DATTU)
Chief Justice

(K.T.SANKARAN)
Judge

ahz/DK